

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

IN RE:

Stanley B. Poole

IndyMac Bank F.S.B.,

VS.

Stanley B. Poole

CHAPTER 7
CASE NO. 07-16134-WCH

MOTION FOR RELIEF FROM STAY

To the Honorable William C. Hillman:

IndyMac Bank F.S.B., your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 460 Sierra Madre Villa, Pasadena, CA 91107.
2. The debtor, Stanley B. Poole, has a mailing address of 11 Ridgewood Ter, Rockport, MA 01966.
3. On September 27, 2007, the debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Massachusetts.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$95,000.00 given by Stanley B. Poole to Mortgage Electronic Registration Systems, Inc., as nominee for Mansfield Mortgage Services, Inc., on or about June 2, 2005. Said mortgage is recorded with the Essex County Registry of Deeds and covers the premises located at 11 Ridgewood Terrace, Rockport, MA 01966.
5. Said mortgage secures a note given by Stanley B. Poole to Mansfield Mortgage Services, Inc. in the original amount of \$95,000.00.
6. There is no other collateral securing the obligation.
7. The mortgage was assigned by Mortgage Electronic Registration Systems, Inc. to the movant.
8. The movant is unaware of any recorded declaration of homestead on said property.

9. As of November 1, 2007, approximately \$94,267.99 in principal, interest, late fees and other charges was due with regard to IndyMac Bank F.S.B.'s note and mortgage. As a result of this motion, attorney's fees and costs of approximately \$330.00 have accrued. This figure may increase as additional attorney's fees and costs accrue.

10. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
IndyMac Bank F.S.B.	First Mortgage	\$94,267.99
Brookline Bank	Second Mortgage	\$11959.00
Sovereign Bank	Third Mortgage	\$24983.00
Total Secured Encumbrances:		\$131209.99

11. According to the debtor's schedules, the fair market value of the subject property is \$654,000.00. The liquidation value of the subject property is \$611,277.76, calculated as the fair market value less a reasonable realtor's fee (6%); deed stamps (\$2,982.24) and anticipated costs incurred for a real estate closing of \$500.00.

12. The note and mortgage are in default for the September 1, 2007 payment, and all payments thereafter plus reasonable attorney's fees and costs and other charges incurred by the movant.

13. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor is in default on said contractual obligations.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the

mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises; (ii) preserving its right to seek any deficiency to the extent permitted by state and federal law, including 11 U.S.C. §524(a); (iii) bringing such actions, including, without limitation, summary process proceedings, as are permissible by law; and (iv) that the Court order such other and further relief as may be just and proper.

Respectfully submitted,

IndyMac Bank F.S.B.,
By its Attorney

/s/ Richard T. Mulligan

Richard T. Mulligan, Esquire
BBO# 567602
HARMON LAW OFFICES, P.C.
P.O. Box 610389
Newton Highlands, MA 02461-0389
617-558-0500

Dated: November 9, 2007

UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE

I, Richard T. Mulligan, Esquire, state that on November 9, 2007, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Massachusetts using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Laurence M. Kelley, Esquire for the Debtor
John Fitzgerald, Assistant U.S. Trustee
John O. Desmond, Trustee

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Richard T. Mulligan

Richard T. Mulligan, Esquire
BBO# 567602

Stanley B. Poole
11 Ridgewood Ter
Rockport, MA 01966

Town of Rockport
Tax Collector
P.O. Box 150
Rockport, MA 01966

Brookline Bank
PO Box 2130
Williamsville, NY 14231

Sovereign Bank
PO Box 16255
Reading, PA 19612

RTM/CXC/200711-0080/Poole, Stanley

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In re:

Stanley B. Poole,

Debtor.

CHAPTER 7
CASE NO. 07-16134-WCH

**Order Granting IndyMac Bank F.S.B. Relief
From The Automatic Stay And Leave To Foreclose Mortgage**

This matter has come before the Court, and after full consideration, and no objections having been filed after proper notice, it is hereby ordered that IndyMac Bank F.S.B., its Successors and/or Assigns, Motion for Relief From the Automatic Stay is hereby granted and it may proceed to foreclose or accept a deed in lieu of foreclosure of the mortgage given by Stanley B. Poole to Mortgage Electronic Registration Systems, Inc., dated June 2, 2005 and recorded with the Essex County Registry of Deeds which covers the premises located at 11 Ridgewood Ter, Rockport, MA 01966, and may exercise its rights under said Mortgage, including preserving its right to seek any deficiency to the extent permitted by state and federal law, including 11 U.S.C. §524(a), and may bring such actions, including, without limitation, summary process proceedings, as are permissible by law, all as set forth in its Motion.

Honorable William C. Hillman
United States Bankruptcy Judge

200711-0080